

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CHARLES BECK, Individually and as
Administrator of the Estate of SHIRLEY
LIEBENGUTH,

Plaintiff,

V.

LEHIGH COUNTY, et al.

Defendants.

Civ. No.: 19-2909

ORDER

AND NOW, this day of , 2021 upon consideration of the Plaintiff's Amended Petition for Approval of Wrongful Death and Survival Action Pertaining to Estate of Shirley Leibenguth, deceased filed on June 17, 2021 is hereby ORDERED and DECREED that Petitioner is authorized to enter into a Settlement with Defendants and the settlement drafts/checks which shall be forwarded to Plaintiff's Counsel are to be made payable to James J. McEldrew III, & Associates in the agreed-upon amounts of \$187,500.00 on behalf of Defendant, Lehigh County and \$62,500.00 on behalf of co-Defendant, Good Shepherd Rehabilitation Network. It is further ORDERED and DECREED that the settlement proceeds are allocated as follows:

To:	Charles Beck, as Administrator of the Estate For Survival Action (100%)	\$ 126,042.05
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It is further ORDERED and DECREED that distribution of the settlement proceeds will take place within thirty (30) days as follows:

Distribution of \$250,000.00:

To:	McEldrew Young	
	For Attorney Fees	\$ 112,500.00

For Case Costs Reimbursement:

Filing Fees

U.S.D.C.	\$	400.00
Dennis Richman Process Service	\$	425.00
Court Reporter		
Everest Court Reporting	\$	887.95

Experts

Full Financials	\$	3,215.00
Alden Geriatric Consulting	\$	550.00

Miscellaneous

Allentown (hearing)	\$	39.00
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TOTAL COSTS	\$	5,516.95
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Medicare reimbursement:	\$	5,941.00
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NET SETTLEMENT FUND DUE CLIENT	\$	126,042.05
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To: Charles Beck, as Administrator of the Estate		
For Survival Action (100%)	\$	126,042.05

Within sixty (60) days of the entry of this final Order, counsel shall file with the office of Civil Administration an Affidavit from counsel certifying compliance with this Order.

BY THE COURT:

J.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CHARLES BECK, Individually and as
Administrator of the Estate of SHIRLEY
LIEBENGUTH,

Plaintiff,

v.

LEHIGH COUNTY, et al.

Defendants.

Civ. No.: 19-2909

**PLAINTIFF'S AMENDED PETITION TO APPROVE SETTLEMENT AND
DISTRIBUTION OF WRONGFUL DEATH AND SURVIVAL ACTIONS PERTAINING
TO THE ESTATE OF SHIRLEY LIEBENGUTH**

TO THE HONORABLE JUDGES OF SAID COURT:

The Petition of Charles Beck, as Administrator of the Estate of Shirley Leibenguth Deceased, by and through their attorneys, James J. McEldrew, III, Esquire and Daniel Purtell, Esquire respectfully represents:

1. Petitioner is Charles Beck who was appointed Administrator of the Estate of Shirley Leibenguth on June 21, 2019 by the Register of Wills of Lehigh County, in Commonwealth of Pennsylvania. A Short Certificate is attached hereto and marked as Exhibit "A."

2. On July 2, 2019, Petitioner filed a Complaint against Defendants on behalf of the Estate of Shirley Leibenguth as well on his own behalf in United States District Court, Eastern District of Pennsylvania. The suit alleged that Defendants violated the requisite standards of care and caused the death of Petitioner's decedent. Plaintiff's Amended Complaint is attached hereto and marked as Exhibit "B".

3. The Decedent, Shirley Leibenguth was born on December 6, 1939 and died on July 5, 2017 and her Social Security Number is 196-32-8952. A copy of the death certificate is attached hereto as Exhibit "C".

4. Notice of the institution of the action as required by Pa.R.C.P. 2005 and Phila. Civ. R. *2206(E) was given to Petitioner and the following parties of interest:

Thomas Beck (Brother/Heir)
1607 Tweed Ave.
Allentown, PA 18103

A true and correct copy of said correspondence is attached hereto as Exhibit "D".

5. On April 21, 2021, Plaintiff entered into a settlement agreement with Defendants in the amount of \$250,000.00 with a release. See attached executed release marked as Exhibit "E".

6. Counsel is of the professional opinion that the proposed settlement is reasonable.

7. Petitioner is of the opinion that the settlement amount is reasonable. Verification of Petitioner, Charles Beck is attached hereto.

8. Counsel has incurred costs and expenses in the total amount of \$5,516.95 for which reimbursement is sought. A copy of the costs and expenses are attached hereto and marked as Exhibit "F."

9. Counsel requests attorney's fees in the amount of \$112,500.00 which represents forty (45%) percent of the gross settlement. A copy of the Contingency Fee Agreement signed by Petitioner, Charles Beck is attached hereto as Exhibit "G." Counsel believes the requested fee is reasonable based upon the complexity and difficulty of the case, and risk involved in accepting this case. Additionally, it should be noted that Plaintiff's attorneys hired two (2) experts. Because of the difficulty of the case and the amount of work involved, the forty-five (45%) percent fee agreement was agreed to by all parties.

10. Petitioner requested the allocation of the proceeds of the settlement after deduction of costs and attorney fees from the Pennsylvania Dept. of Revenue as follows:

For Wrongful Death Claim	\$ 100,833.64 (80%)
For Survival Action	\$ 25,208.41 (20%)

11. The requested allocation of the proceeds between the Wrongful Death Claim and Survival Action are in light of the fact that the loss of companionship, society and comfort that Petitioner now has to endure greatly outweighs the pain and suffering for the survival action

12. The Dept. of Revenue denied Petitioner's request of the 80/20 allocation of the settlement proceeds and approved 100% allocation to the Survival Action. See attached correspondence from the Dept. of Revenue dated May 12, 2021 marked as Exhibit "H".

13. The Dept. of Human Services is not asserting a lien. See attached correspondence from the Dept. of Human Services marked as Exhibit "I".

14. Decedent received health insurance benefits through a Medicare Advantage plan, Medicare is asserting a lien in the amount of \$5,941.00. See attached Medicare lien marked as Exhibit "J".

WHEREFORE, Petitioner prays that he be permitted to enter into the settlement recited above, and that the Court enter an Order of Distribution within thirty (30) days as follows:

Distribution of \$250,000.00:

To:	Charles Beck, as Administrator of the Estate	
	For Survival Action(100%)	\$ 126,042.05

It is further ORDERED and DECREED that distribution of the settlement proceeds will take place within thirty (30) days as follows:

Distribution of \$250,000.00:

(a)	To:	McEldrew Young	
		For Attorney Fees	\$ 112,500.00
		For Case Costs Reimbursement:	
		Filing Fees	
		U.S.D.C.	\$ 400.00
		Dennis Richman Process Service	\$ 425.00
		Court Reporter	
		Everest Court Reporting	\$ 887.95
		Experts	
		Full Financials	\$ 3,215.00
		Alden Geriatric Consulting	\$ 550.00
		Miscellaneous	
		Allentown (hearing)	\$ 39.00

TOTAL COSTS	\$	5,516.95
Medicare reimbursement:	\$	5,941.00
NET SETTLEMENT FUND DUE CLIENT	\$	126,042.05
(a) To: Charles Beck, as Administrator of the Estate For Survival Action (100%)	\$	126,042.05

McELDREW YOUNG PURTELL MERRITT



By:

DANIEL PURTELL, ESQUIRE
Attorney for Plaintiff

Dated: June 17, 2021

VERIFICATION

I, Charles Beck, as Administrator of the Estate of Shirley Leibenguth, Deceased, hereby state that I am the Petitioner in this action and verify that the statements contained in the foregoing Petition to Settle Wrongful Death and Survival Actions, are true and correct to the best of my knowledge, information and belief.

I understand that the statements in said Petition are made subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsification to authorities.



CHARLES BECK, as Administrator of
the ESTATE OF SHIRLEYLEIBENGUTH,
deceased

Dated: 6/17/21

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Plaintiff's Amended Petition to Approve Settlement and Distribution of Wrongful Death and Survival Action has been served via U.S.D.C., E.D.Pa. ECF on the date of its acceptance.

McELDREW YOUNG PURTELL MERRITT

A handwritten signature in blue ink, appearing to read 'D. Purtell', is written over a horizontal line.

By:

DANIEL PURTELL, ESQUIRE
Attorney for Plaintiff

Dated: June 17, 2021